

**Ravalli County Planning Board
Minutes for September 5, 2007
7:00 p.m.
Commissioners Meeting Room, 215 S. 4th Street, Hamilton, Montana**

Public Hearings

Burr Creek Ranch (Burr Creek Ranch, LLC) Major Subdivision and One Variance Request –
Continuation from August 15, 2007 (subject to Subdivision Regulations, as amended August 4,
2005)
One Horse Estates (Martin) Major Subdivision and One Variance Request (subject to Subdivision
Regulations, as amended August 4, 2005)

Public Meeting

Update on Countywide Zoning Project

1. Call to order

Chip called the meeting to order at 7:05 PM.

2. Roll Call

(A) Members present (See Attachment A, Roll Call Sheet)

Mary Lee Bailey (present)
Dale Brown (absent –excused)
Phil Connelly (present)
Ben Hillicoss (absent – excused)
Dan Huls (absent – unexcused)
JR Iman (present)
Lee Kierig (present)
Chip Pigman (present)
Les Rutledge (present)

Park Board Representative: Bob Cron (absent - excused)

(B) Staff

Kimberli Imig
Shaun Morrell
Tristan Riddell
Renee Van Hoven

3. Approval of Minutes

Chip asked if there were any corrections or additions to the minutes from August 15, 2007.
There were none. The minutes were approved.

4. Amendments to the Agenda

There were none.

5. Correspondence

Tristan said that there was correspondence for Burr Creek Ranch and One Horse Estates in the Planning Board Member's folders. (See Attachment C, Correspondence from Public)

6. Disclosure of Possible/Perceived Conflicts

There were none.

7. Public Hearings

(A) Burr Creek Ranch (Burr Creek Ranch, LLC) Major Subdivision and One Variance Request – Continuation from August 15, 2007

(i) Staff Report on the Subdivision

Tristan Riddell gave an overview of the proposal and stated that Staff recommended conditional approval of the variance request and subdivision proposal. He entered the Staff Report into the record. (See Attachment B, Burr Creek Ranch Staff Report).

(ii) Three Minute Rule Waiver Requests

There were none.

(iii) Public Comment on the Subdivision Proposal and Variance Request

(a) Persons in Favor (Applicant followed by other proponents)

The applicant is being represented by Bill Burnett of PCI. Bill stated that they made changes since the last meeting. To summarize:

- As far as public health and safety, the mitigating features are the roundabouts, the provision of the secondary exit with the breakaway fence on Moose Hollow Road, and an agreement between the Homeowners Associations is proposed for the assurance that the road will be plowed and maintained.
- There will be improvements to Moose Hollow Road for emergency vehicles.
- Lots 3 and 4 boundary lines have been re-configured so they can also get out in an emergency if need be.
- A portion of the road is going to be raised a foot to a foot and a half so if there is a flood the residents can leave safely.
- Environmental concerns, social concerns, and the unusual expense are the reason for this variance.
- There will be a buried spray irrigation system for Lots 1 through 5 and the common area. This will enhance the habitat for the bobolink.
- As for the bobolink, there will be a limit on lawn and ornamental lawn irrigation, and limit on burning from May 1st – July 15th as this is mating season for the bobolink.
- On lots 1 through 4 there will be building envelopes.
- As for agricultural use on the land there has been none for the last 6 to 7 years and no prime soils will be lost. In the past the agricultural uses were for horse and cow grazing. At one time hay was grown, but it was not very good hay so that was stopped.

(b) Persons Opposed

There were none.

(c) Rebuttal (Applicant first, others in order as they are recognized by the Chair)

There was none.

(d) Close: Public Comment

(iv) Board Deliberation on the Variance Request (Cul-de-sac length)

(a) Board discussion and questions (to proponents and opponents only as needed)

Mary Lee was still worried about the run outs. She asked if the run outs would always be maintained.

Bill said yes.

JR stated that this is not a big problem. This particular site is only 9%. There are much bigger problems in the county as far as slope goes.

(b) Board action

(1) Review of the Variance Request against the Five Criteria

1. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties

Six board members agreed, no Board Members disagreed.

2. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.

Six board members agreed, no Board Members disagreed.

3. Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).

Six board members agreed, no Board Members disagreed.

4. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.

Six board members agreed, no Board Members disagreed.

5. The variance will not cause a substantial increase in public costs.

Six board members agreed, no Board Members disagreed.

(See Attachment D, Burr Creek Ranch Five Criteria for Review of Subdivision Variance Requests)

JR made a motion to recommend approval of the variance as the general consensus was that the entire criteria were met.

Lee seconded that motion.

Tristan stated that because the staff had found negative conclusions for criteria 2 and 3 the Board needed to come up with findings of fact to support their positive conclusions.

JR stated findings of fact as:

- 1) This is a long and narrow piece of land, which is not good for a loop road.
- 2) A loop road would disturb wetlands and riparian areas associated with the creek.
- 3) The applicant is proposing turnarounds and a secondary emergency access.
- 4) The applicant has pursued primary access through Moose Hollow, but the existing residents do not want it.
- 5) The applicant is proposing to plow and sand a portion of Moose Hollow so fire trucks can have access.

b) Board Decision

The vote was called; the Board Members voted unanimously (6 – 0) to **approve** the variance request. (See Attachment E, Burr Creek Ranch Variance Vote Sheet)

(v) Board Deliberation on the Subdivision Proposal

(a) Board discussion and questions (to proponents and opponents only as needed)

Les asked if the schools and fire departments had a set amount that they were asking for, because he did not see any mention of that.

Chip asked if the board could leave the amounts up to the commissioners to decide when they were reviewing it.

Tristan and Renee agreed that that would be ok.

(b) Board action

(1) Review of the Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion and the findings of fact and conclusions of law on the subdivision proposal in the Staff Report.

(2) Board Decision

Phil made a motion to recommend approval the subdivision based on the staff report with the changes being made to Conditions #12, #13, #15, #23, and #25.

Conditions #12 & #13 were amended to allow for public road and utility easements within no-build/no-alteration zones.

Condition #15 was amended to state that the HOA maintain the knock down gate for the emergency access.

Condition #23 was amended to state that 50% landowners along the portion of Moose Hollow Road, subject to the RMA, would need to sign the agreement.

Condition #25 was amended to reflect mitigation measures for bobolink habitat agreed upon by FWP and the applicant.

JR seconded the motion.

The vote was called; the Board Members voted unanimously (6 – 0) to recommend **approval** of the Burr Creek Ranch Subdivision. (See Attachment F, Burr Creek Ranch Subdivision Vote Sheet)

B) One Horse Estates (Martin) Major Subdivision and One Variance Request

(i) Staff Report on the Subdivision

Tristan Riddell gave an overview of the proposal and stated that Staff recommended conditional approval of the subdivision and variance request. He entered the Staff Report into the record. (See Attachment G, One Horse Estates Staff Report)

(ii) Three Minute Rule Waiver Requests (if any)

There were none.

(iii) Public Comment on the Subdivision Proposal and Variance Request

(a) Persons in Favor (Applicant followed by other proponents)

Dick Martin stated that there will be state-of-the-art septic systems used because he does not want to hurt his neighbors to the east. The last thing he wants from this subdivision is to upset his neighbors. This subdivision will be geared toward an older generation of people so for those worried about the school district, there will not be many new students they propose.

Terry Nelson, the applicant's consultant stated that there are no prime agriculture soils that would be affected either within the old or new regulations.

There are no agricultural water issues associated with this land either. No changes are anticipated for the ditch so this will not affect anyone who is using it.

Regarding the staff report:

- Condition #14 – The Homeowners Association (HOA) will maintain the parks, roadways, walkways etc. Only phases 2 through 5 will be responsible for waste water systems because they are the only users.
- Condition #15 – The Applicant is comfortable with making a lifetime donation to the fire department.
- Conditions #18, 42, 49, and 55 – These talk about having a 50-foot turning radius. The county standards say a 37-foot turning radius is necessary. The temporary cul-de-sac will have 37 feet of turning radius which is what will be used until the subdivision is done.
- Phasing – Phase I will have individual wells and septic. Phases 2 through 5 will have a community septic system.
- The applicant is asking for the variance because under the old regulations multiple phases are not allowed. The project will take 10 years to build 5 phases.

(b) Persons Opposed

Ed Kuehne is a landowner that lives just east of the proposed subdivision. He had a few concerns. First, if these 70 lots are put in he is worried that his area is going to lose water because of all the new septic. Also, all of this is going to influence the school district that is already outgrowing the current facilities. He wondered where they would get money to expand.

(c) Rebuttal (Applicant first, others in order as they are recognized by the Chair)

Terry stated that he had two different hydrologic assessments done. (See Attachment H, Hydrologic Assessment Results) These systems are better than the average system because they are regularly reviewed by DEQ. Individuals are not in charge of their own maintenance so it is overall a better method.

(d) Close: Public Comment

(iv) Board Deliberation on the Variance Request (Project Phasing)

(a) Board discussion and questions (to proponents and opponents only as needed)

Lee stated that he did some research after reading the staff report. These septic systems are really made to evaporate and get into the ground.

Terry stated that is correct. The system the state uses has certain amount of nitrate which increases in certain amounts of time. This model has a lot of built in safety and expansion factors.

Lee said the water coming out of this system is pretty well treated and well protected.

Phil said that it looks like in the subsequent phases; the waste treatment would flow to the wetlands area near the north of the project.

Terry said that the flow would be to the northeast of the project.

Mary Lee asked if you could still have a park and common area over the drainfields.

Terry said yes.

Les had a couple of issues to bring up. First, the safety issue of the two accesses on Highway 93. Though MDT has already approved the proposed accesses, the applicant should consider an access off of One Horse. A trail could lead to One Horse so the children could walk or bike to school safely. Second the entrance or exit that is at Beck Lane at a 45 degree angle to Hwy. 93. Les just wanted to make sure that RCRBD and MDT were in agreement.

Terry stated that MDT had requested that the access be at a 45 degree angle.

Les stated that since MDT approved of the accesses he has no issue with the proposal. The only reason he brought up the issue was because someone had asked him to.

Lee asked about the 47 foot wide easement running along Highway 93; is it a build zone?

Terry said this is a ditch that will never fill with water that has a fence on each side of it. This is not accessible for building.

Lee asked for confirmation that it would never be developed.

Terry said never.

Les stated that the lots along the highway might be more desirable if there was landscaping or trees buffering the highway.

JR asked if Dick Martin owns the ditch on the west side flows west to east.

Dick Martin responded yes.

JR said that something needs to be done so that the water flow is not going directly east. Those neighbors will potentially have a problem that is not their fault.

Dick Martin responded that there is a 12 foot polyurethane liner in the ditch.

JR requested that on the record please state that Dick has lined the ditch from Beck Lane and that Dick will be maintaining it. If anything happens, the future lot owners will know that something can be done.

Dick Martin responded that he is comfortable with that being on the record.

(b) Board action

(1) Review of the Variance Request against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and the findings of fact and conclusions of law on the subdivision proposal in the Staff Report.

(2) Board Decision

Lee made a motion to recommend approval of the variance as presented.

Les seconded the motion.

JR stated that the board should keep in mind that they recommended denial of a similar variance for Aspen Springs. He wondered if the Board should have a policy on an acceptable number of phases.

The vote was called; the Board Members voted unanimously (6 – 0) to recommend **approval** of the variance to allow the project to be developed in 5 phases over 10 years. (See Attachment I, One Horse Estates Variance Vote Sheet)

(v) Board Deliberation on the Subdivision Proposal

(a) Board discussion and questions

There was none.

(b) Board action

(1) Review of the Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion and the findings of fact and conclusions of law on the subdivision proposal in the Staff Report.

(2) Board Decision

Les made a motion to recommend approval of the One Horse Estates subdivision, based on the findings of fact and conclusion law in the staff report, and subject to the conditions in the staff report.

Mary Lee seconded the motion.

JR wanted to make sure that the motion included the condition that there was an agreement or something to establish that the ditch would be maintained by the applicant and to ensure that there is lining within the ditch from Beck Lane to where the ditch enters the property.

The vote was called; the Board Members voted unanimously (6 – 0) to recommend **approval** of the One Horse Estates Subdivision with the condition that an agreement be established that to the ditch to the west of the property will be maintained by the applicant and that the ditch is lined from Beck Lane north to where the ditch enters the property. (See Attachment J, One Horse Estates Subdivision Vote Sheet)

8. Close Public Hearings

9. Public Meeting

(A) Update on Countywide Zoning Project

Shaun gave an over view of what is going on in the Countywide Zoning Project. (See Attachment K, Countywide Zoning Project – Progress Report to Planning Board)

Phil asked if the staff started with the questions that the LUSC came up with back in the Spring.

Shaun stated that yes he thought this was based on that.

Phil stated that there had been some loose ends and that Karen was supposed to have been working on those.

Les said that some of those issues had to do with cluster developments.

Shaun said to bring it up at the BCC meeting on the 19th because he is not sure of any specific developments.

Lee said that he has made contact with the school districts and has set up meetings with the medical staff at Marcus Daly Memorial Hospital, and has been calling clinics, doctors etc and wherever he goes he is telling people about getting involved in the countywide zoning project.

Mary Lee said that we have to stop saying “November 2008” because this has to be done way before then. I think we need to start telling people May 2008 so that it will be done in time for November.

Lee asked if the Planning Staff is going to make our own maps because there is a real potential that the community may fail at this. He stated his concern that there has not been a large attendance at some of the nuts and bolts meetings. He is also a little worried about training. Just because these people have come to the previous meetings is it advisable to say that these people have been trained adequately to take on a task such as this.

Chip stated that this issue was brought up at the Hamilton meeting as well.

Lee said that we need some guiding principles.

Les asked about the possibility of bringing on a consultant.

JR stated that he knows that there are maps that are already made. He said that the zoning maps are generally done. He posed the scenario regarding covenants on different properties. There are some places that are not going to make zones or there may be properties that are in between zones, he questioned what would be done about that.

Shaun stated that these matters would be discussed and taken care of.

10. Communications from Staff

There were none.

11. Communications from Public

There were none.

12. Communications from Board

There were none.

13. New Business

Les brought up the fact that Maura Murray had resigned. He asked who the new VP would be and how the Board would go about deciding who would be her replacement.

Chip stated that this issue would be addressed at the next meeting.

14. Old Business

15. Next Regularly Scheduled Meeting: September 19, 2007 at 3:00 PM

16. Adjournment

Chip adjourned the meeting at 9:05 PM.